

**From:** Valerie Kapko  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I am voicing my opinion in agreement with the following statements made by my associate Jim Lucha regarding Microsoft. Mr. Lucha states:

I am writing to inform you of a great injustice taking place, that left unchecked by good citizens such as myself, will sacrifice freedom for me and future generations.

On November 5, 1999, a U.S. Court found Microsoft guilty of abusing its monopoly. An appeals court upheld that decision.

This past November, the DOJ and Microsoft came to a settlement that appears to have been written by Microsoft, and are not in the best interest of you, the consumer and citizen.

The Department of Justice, the President, and Microsoft are using the tragic events of September 11th to sweep this case under the rug.

1. Microsoft overcharges for its products. Its rate of return on investments is 88%, far above the largest corporations in other industries. For the others 13% is considered quite good. Microsoft is holding approximately 35 billion of your money in cash to further it's bullying of the computer industry. This is illegally obtained money.

Remember their overcharging is passed on to you the consumer and taxpayer. Virtually every single product you purchased, the producer overpaid for computer software and had to pass that cost on to you.

The government also overpaid for software with your tax dollars.

2. Microsoft forced computer manufacturers into illegal contracts prohibiting them from including alternative software and operating systems as choices.

While the antitrust trial focused on the software aspects with Netscape the prime example, it did not address the issue of alternative operating systems.

It is my opinion that Microsoft's anticompetitive practices in this area alone have set the computing world back approximately ten years.

I often hear from people 'Why aren't computers easier to use.' or 'When will I be able to talk to my computer and tell it what to do.'

Well, Windows 2000 is only now approaching the level of stability that was

available in 1994 with IBM's OS/2. Also, in version 4 of IBM's OS/2, released approximately in 1997, voice recognition was introduced, and you could speak commands to your computer. A feature that to this day is not available in a Microsoft operating system.

3. Microsoft developed a web site for the British government for use by its citizens for taxes. The site is only useable by people using Microsoft's Internet Explorer on its Windows operating system. Not even people using Internet Explorer on the Macintosh platform could use the web site let alone people using alternative web browsers such as Netscape and Opera.

4. In Australia, Microsoft rents its software products rather than sell them. The

consumer must pay every couple of years or stop using the product. If they don't renew, then they are only allowed to view their current documents. They can no longer edit them in any way. Microsoft wanted to implement the software rental here in the U.S., but changed their mind due to the then current antitrust case. Consumers will have no choice in the next couple of years.

5. What message are we giving our future generations if we do nothing to convicted criminals and businesses?

#### WHY THE SETTLEMENT IS INAPPROPRIATE

1. First and foremost, the settlement does not address ill-gotten gains. Microsoft is allowed to keep billions of dollars acquired illegally. How many convicted thieves are you aware of that were allowed to keep their stolen goods?

2. The settlement creates a 3 person panel to make sure Microsoft does not continue its current illegal practices. The first problem is Microsoft gets to select one member of the panel, who in turn has a say as to who the third member is. Microsoft basically controls the panel. The second problem is that the panel members are not allowed to discuss with anyone except the DOJ. If Microsoft is in any violation, the public may never know.

3. No punishment for the executives of Microsoft that knowingly and willingly led their company into law breaking actions.

4. While the API's (programming interfaces) used to communicate with the operating system will be documented and released, it will only be done for companies and business that Microsoft deems have a viable business. The Free Software movement has been acknowledged by Microsoft to be its biggest competition, yet they have publicly stated that businesses with a basis in Free Software don't have a viable business model. So, their toughest competition is excluded from the API's to begin with.

5. The duration of the restrictions is between 5 to 7 years, which is not a significant amount of time to reverse the detrimental damage caused by Microsoft. Also, if Microsoft is found to be in violation, there is no extension to the duration.

6. The settlement is full of loopholes for Microsoft to take advantage of. Remember that Microsoft has been found guilty in previous court hearings, and used the loopholes contained within those settlements to render them useless.

7. The settlement does not address the file formats used by Microsoft's Office programs. With each new version of Microsoft's office suite programs, they change the format of the documents created. This creates a barrier to entry for competing office software. It is also a means to force current customers in a never ending upgrade cycle, where they purchase the upgrade to be able to read the files sent to them by others, even though they themselves do not need the added features of the newer version.

Computer Economics estimated the economic impact of malicious computer code for the year 2001 as \$13.2 billion dollars. In 1995, prior to Microsoft's Monopoly, the impact was 1/2 a billion. There has been a steady economic drain year after year. While the costs include all malicious computer code, virtually all were due to Microsoft specific software. The virii that caused that damage were classified by security experts as lower risk, basically meaning they did not destroy data. There are security experts that have predicted that if a cyber-terrorist attacks with a destructive computer virus, the economic impact will be devastating. It is this reason why the National Security Agency has recommended government agencies to adopt other server software.

I do not feel the Microsoft anti-trust settlement is in the consumer's best interest.

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